HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

Writ Petition No. 32511 of 1998

Dated: 30.03.2007

Between:

Cholleti Ramanaiah S/o Venkataiah

.... PETITIONER

AND

The Revenue Divisional Officer, Karimnagar and two others

.....RESPONDENTS

HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

Writ Petition No.32511 of 1998

Order:

The petitioner approached this court by way of filing the present Writ Petition with the following prayer:

> "For the reasons disclosed in the accompanying affidavit, it is prayed that this Hon'ble Court may be pleased to issue a writ of Mandamus or any other appropriate Writ or Writs, Order or Direction, declaring and setting aside the notice dated 24.4.1998 issued in Proc. No. G/4691/97 on the file of the 2nd respondent as illegal, arbitrary, without jurisdiction and violative of Article 300-A of the Constitution of India by further declaring the impugned action of the respondents in seeking to demolish the house properties bearing Nos. 16-70/1, 16-72, 16-73 and 16-74 situated at Huzurabad Village and Mandal, Karimnagar District as illegal and arbitrary and without any authority of law; award costs and pass such other or further orders, as are deemed fit and proper in the circumstances of the case".

The brief facts of the case are that the petitioner purchased the open land under registered sale deed dated 10.8.1975 and after obtaining due permission from the Gram Panchyat on 16.8.1982 constructed premises bearing No. 16-70/1. Again on 6.8.1974 another piece of adjacent land was purchased under registered sale deed and after obtaining permission from the Gram Panchayat on 13.4.1976 three

portions were constructed in the said land bearing Municipal Nos. 16-72, 16-73 and 16-74. It is submitted that even prior to his purchase his vendor was in possession of the property for the last about 23 years and there is neither any dispute with regard to the title nor with the possession of his vendor. The petitioner is in possession and enjoyment of the property as absolute owner from the date of his purchase. Be that as it may, as respondents herein, are trying to demolish a part of the property for road widening without following any procedure, he filed W.P.No. 27119 of 1997 before this Court and the same was disposed of by this court by an order dated 12.2.1998 directing the respondents to conduct detailed enquiry and pass appropriate orders before taking up demolition. Thereafter, the 2nd respondent has issued notice dated 24.4.1998 purporting to be under Section 7 of the Land Encroachment Act stating that the petitioner has encroached the land on PWD Road and constructed the house. Hence, the present Writ Petition.

Despite the fact that the notice is served on the respondent, no counter affidavit is filed. Evidently, the respondent issued a notice under Section 7 of the Land Encroachment Act, for which an explanation was offered on 27.4.1998 and the apprehension of the petitioner is that on 17.11.1998 respondents visited the land in question and made markings for the purpose of demolishing the same, as part of road widening

This court is of the view that having regard to the fact that a show cause notice was issued for which an explanation was also offered, the respondents cannot initiate any further action without passing any order on the explanation to the show cause notice dated 24.4.1998. Accordingly, the respondents are hereby directed to pass appropriate orders by considering the said explanation and thereafter may proceed in accordance with law.

Accordingly, the Writ Petition is disposed of. No order as to costs.

GOPALA KRISHNA TAMADA, J.

Date: 30.03.2007
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